This is the first Office Action for the serial number 10/686,488, AUDIO/VISUAL UNIT SECURITY APPARATUS, filed on 10/15/03.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-14, drawn to subcombination, classified in class 248, subclass 323.

II. Claims 15-18, drawn to combination, classified in class 52, subclass 736.2.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it can be used to support different structure such as suspending a sign. The subcombination has separate utility such as providing security for desktop computer from theft.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable

in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention**.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an

election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

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Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Jeff Kamenetsky on 8/4/08 a provisional election was made without traverse to prosecute the invention of group I, claims 1-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the security collar and raceways must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
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> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 6 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent # 6,328,270 to Elberbaum.

Elberbaum teaches an apparatus comprising a height adjustable mounting assembly including a mounting column (14 and 16) and a locking assembly rotatably coupled to the mounting column. The locking assembly includes an enclosure (3) and a security collar (11) for removably receiving the mounting column and for covering exposed portions of the mounting column. The security collar is arranged not to impede multi-planar rotation of the enclosure. The mounting column includes raceways (figures 4A-4C). The column includes security members (18) projecting thereform.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4-5, 10-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elberbaum in view of US Patent # 4,964,606 to Beam et al.

Elberbaum teaches an apparatus comprising a height adjustable mounting assembly including a mounting column (14 and 16) and a locking assembly rotatably coupled to the mounting column. The locking assembly includes an enclosure (3) and a security collar (11) for removably receiving the mounting column and for covering exposed portions of the mounting column. The security collar is arranged not to impede multi-planar rotation of the enclosure.

The mounting column includes raceways (figures 4A-4C). The column includes security members (18) projecting thereform.

Elberbaum teaches the height adjustable mounting assembly but fails to teach the height adjustable mounting assembly includes a support column and the mounting column being adjustably mounted alongside the support column. Beam et al. teaches the height adjustable mounting assembly (20) including a support column (32) and the mounting column (34) being adjustably mounted alongside the support column. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Elberbaum's height adjustable mounting assembly with support column as taught by Beam et al. to provide telescopic support to increase/decrease height in vertical axis.

Claims 7, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elberbaum in view of Beam et al. and in further view of US Patent # 6,739,096 to Feldpausch et al.

Elberbaum in view of Beam et al. teaches the support column but fails to teach the upper surface of support column is supported by a tracking mechanism. Feldpausch et al. teaches the tracking mechanism (24, 33-34, section 0020) for supporting the upper surface of support column. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the tracking mechanism to Elberbaum in view of Beam et al.'s support column as taught by Feldpausch et al. to change location of the support column to provide convenience for viewer.

Allowable Subject Matter

Claims 3 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 7,029,133 to Challis

US Patent # 7,156,359 to Dittmer et al.

US Patent Application Publication # 2003/0234335 to Umberg

US Patent Application Publication # 2004/0211872 to Dittmer et al.

US Patent Application Publication # 2007/0034764 to Dittmer et al.

US Patent Application Publication # 2006/0284046 to Umberg

Challis, Umberg and Dittmer et al. teach a suspended security device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joey Wujciak whose telephone number is (571) 272-6827 or send

e-mail to the examiner at Joey.Wujciak@uspto.gov. The fax machine telephone number for the Technology Center is (571) 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Primary examiner
A. Joseph Wujciak III
Art Unit 3632
8/12/08
/A. Joseph Wujciak III/